

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BARD WATER DISTRICT,
Plaintiff,
v.
JAMES DAVEY AND ASSOCIATES,
INC., an Arizona Corporation; JAMES
DAVEY; and DOES 1 through 50,
Defendants.

Case No.: 13-cv-02727-JM-PCL

**SECOND AMENDED SCHEDULING
ORDER REGULATING DISCOVERY
AND OTHER PRE-TRIAL
PROCEEDINGS**

JAMES DAVEY AND ASSOCIATES,
INC., an Arizona corporation,

Third-Party Plaintiff,

v.
GEORGE CAIRO ENGINEERING,
INC., an Arizona corporation; and ROES
1 through 10, inclusive.

Third-Party Defendants.

On March 21, 2018, the parties filed a joint motion to amend the previously amended scheduling order. (Doc. 85.) The parties base their motion on the third party complaint filed against George Cairo Engineering (GCE). (Doc. 63.) GCE filed a motion

1 to dismiss the third party complaint, and after the Court denied its motion, GCE filed a
2 counterclaim against James Davey and Associates (JDA). (Doc. 69, 73.) The Court
3 dismissed GCE's counterclaim with leave to amend on March 5, 2018, pursuant to a
4 motion to dismiss filed by JDA. (Doc. 83.) Given this third party motion practice, the
5 parties are still in the pleading stage of the case and will require additional time to
6 complete discovery and prepare for trial. (Doc. 85 at 2.)

7 **Good cause appearing, IT IS HEREBY ORDERED:**

8 1. All fact discovery shall be completed by all parties by **May 31, 2018.**

9 "Completed" means that all discovery under Rules 30-36 of the Federal Rules of Civil
10 Procedure, and discovery subpoenas under Rule 45, must be initiated a sufficient period
11 of time in advance of the cut-off date, **so that it may be completed** by the cut-off date,
12 taking into account the times for service, notice and response as set forth in the Federal
13 Rules of Civil Procedure. **Counsel shall promptly and in good faith meet and confer**
14 **with regard to all discovery disputes in compliance with Local Rule 26.1(a).** The
15 Court expects counsel to make every effort to resolve all disputes without court
16 intervention through the meet and confer process. If the parties reach an impasse on any
17 discovery issue, counsel shall file an appropriate motion within the time limit and
18 procedures outlined in the undersigned magistrate judge's chambers rules. **A failure to**
19 **comply in this regard will result in a waiver of a party's discovery issue. Absent an**
20 **order of the court, no stipulation continuing or altering this requirement will be**
21 **recognized by the court.**

22 2. The parties shall designate their respective experts in writing by **June 22,**
23 **2018.** The parties must identify any person who may be used at trial to present evidence
24 pursuant to Rules 702, 703 or 705 of the Fed. R. Evid. This requirement is not limited to
25 retained experts. The date for exchange of rebuttal experts shall be by **July 6, 2018.** The
26 written designations shall include the name, address and telephone number of the expert
27 and a reasonable summary of the testimony the expert is expected to provide. The list
28 shall also include the normal rates the expert charges for deposition and trial testimony.

1 3. By August 7, 2018, each party shall comply with the disclosure provisions
2 in Rule 26(a)(2)(A) and (B) of the Federal Rules of Civil Procedure. This disclosure
3 requirement applies to all persons retained or specially employed to provide expert
4 testimony, or whose duties as an employee of the party regularly involve the giving of
5 expert testimony. **Except as provided in the paragraph below, any party that fails to**
6 **make these disclosures shall not, absent substantial justification, be permitted to use**
7 **evidence or testimony not disclosed at any hearing or at the time of trial. In**
8 **addition, the Court may impose sanctions as permitted by Fed. R. Civ. P. 37(c).**

9 4. Any party shall supplement its disclosure regarding contradictory or rebuttal
10 evidence under Fed. R. Civ. P. 26(a)(2)(D) by August 21, 2018.

11 5. All expert discovery shall be completed by all parties by September 19,
12 2018. The parties shall comply with the same procedures set forth in the paragraph
13 governing fact discovery.

14 6. Failure to comply with this section or any other discovery order of the court
15 may result in the sanctions provided for in Fed. R. Civ. P. 37, including a prohibition on
16 the introduction of experts or other designated matters in evidence.

17 7. All other pretrial motions must be filed by October 18, 2018. Counsel for
18 the moving party must obtain a motion hearing date from the law clerk of the judge who
19 will hear the motion. The period of time between the date you request a motion date and
20 the hearing date may vary from one district judge to another. Please plan accordingly.
21 Failure to make a timely request for a motion date may result in the motion not being
22 heard. Motions in limine are to be filed as directed in the Local Rules, or as otherwise set
23 by the district judge.

24 8. A Mandatory Settlement Conference shall be conducted on October 31,
25 2018 at 10:00 a.m. in the chambers of **Magistrate Judge Peter C. Lewis**. Counsel or
26 any party representing himself or herself shall submit confidential settlement briefs
27 directly to chambers by October 24, 2018. All parties are ordered to read and to fully
28 comply with the Chamber Rules of the assigned magistrate judge.

1 9. In jury trial cases before Judge Miller, neither party is required to file
2 Memoranda of Contentions of Fact and Law.

3 10. Counsel shall comply with the pre-trial disclosure requirements of Fed. R.
4 Civ. P. 26(a)(3) by **November 21, 2018**. Failure to comply with these disclosure
5 requirements could result in evidence preclusion or other sanctions under Fed. R. Civ. P.
6 37.

7 11. Counsel shall meet and take the action required by Local Rule 16.1(f)(4) by
8 **November 1, 2018**. At this meeting, counsel shall discuss and attempt to enter into
9 stipulations and agreements resulting in simplification of the triable issues. Counsel shall
10 exchange copies and/or display all exhibits other than those to be used for impeachment.
11 The exhibits shall be prepared in accordance with Local Rule 16.1(f)(4)(c). Counsel shall
12 note any objections they have to any other parties' Pretrial Disclosures under Fed. R. Civ.
13 P. 26(a)(3). Counsel shall cooperate in the preparation of the proposed pretrial
14 conference order.

15 12. Counsel for plaintiff will be responsible for preparing the pretrial order and
16 arranging the meetings of counsel pursuant to Civil Local Rule 16.1(f). By **November**
17 **28, 2018**, plaintiff's counsel must provide opposing counsel with the proposed pretrial
18 order for review and approval. Opposing counsel must communicate promptly with
19 plaintiff's attorney concerning any objections to form or content of the pretrial order, and
20 both parties shall attempt promptly to resolve their differences, if any, concerning the
21 order.

22 13. The Proposed Final Pretrial Conference Order, including objections to any
23 other parties' Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures shall be prepared, served and
24 lodged with the assigned district judge by **December 11, 2018**, and shall be in the form
25 prescribed in and comply with Local Rule 16.1(f)(6).

26 14. The final Pretrial Conference is scheduled on the calendar of the **Honorable**
27 **Jeffrey T. Miller** on **December 19, 2018 at 8:30 a.m.**. A trial will be held before the
28 Honorable Jeffrey T. Miller, United States District Court Judge, on **January 22, 2019** at

1 **10:00 am.**

2 15. The parties must review the chambers' rules for the assigned district judge
3 and magistrate judge.

4 16. A post trial settlement conference before a magistrate judge may be held
5 within 30 days of verdict in the case.

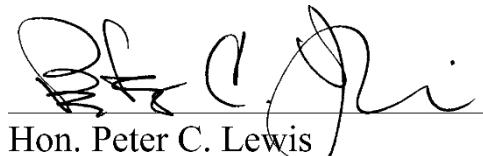
6 17. The dates and times set forth herein will not be modified except for good
7 cause shown.

8 18. Briefs or memoranda in support of or in opposition to any pending motion
9 shall not exceed twenty-five (25) pages in length without leave of a district court judge.
10 No reply memorandum shall exceed ten (10) pages without leave of a district court judge.
11 Briefs and memoranda exceeding ten (10) pages in length shall have a table of contents
12 and a table of authorities cited.

13 19. Plaintiff's counsel shall serve a copy of this order on all parties that enter
14 this case hereafter.

15 **IT IS SO ORDERED.**

16 Dated: March 22, 2018



Hon. Peter C. Lewis
United States Magistrate Judge